

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

| | | |
|----------------------------|---|------------------|
| INSURANCE COMPANY OF |) | |
| THE WEST, |) | |
| |) | |
| Plaintiff |) | |
| |) | |
| vs. |) | CV-09-RRA-1235-S |
| |) | |
| KENT CONSTRUCTION COMPANY, |) | |
| LLC; MICHAEL D. KENT, and |) | |
| FRANCES W. KENT, |) | |
| |) | |
| Defendants |) | |

Memorandum Opinion


Insurance Company of the West (“ICW”) filed this civil action to recover sums it paid out, as surety for the defendants, on construction contracts upon which the defendants defaulted. (Doc. 1.) On May 7, 2010, the individual defendants filed for relief under Chapter 7 of Title 11 of the United States Code. (Doc. 16.) In light of that action, on May 11, 2010, the magistrate stayed this case as to the individual defendants only.

ICW has moved the Court for partial summary judgment, pursuant to Rule 56(d)(2). (Doc. 14.) It seeks a judgment finding the defendants jointly and severally liable to ICW, but reserving for later determination the amount of damages to which ICW is entitled. Kent Construction Company (“Kent”), the only defendant as to which this matter is not stayed, has not responded to the motion.

On October 6, 2010, the magistrate recommended that the motion be GRANTED. No objections have been filed to that recommendation.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and his recommendation is ACCEPTED. The Court EXPRESSLY FINDS that there are no genuine issues of material fact and that the defendant is entitled to judgment as a matter of law. Accordingly, the defendant's motion for summary judgment is due to be GRANTED. An appropriate order will be entered.

DONE this the 22nd day of October, 2010.


WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE